



# House of Representatives

General Assembly

**File No. 217**

January Session, 2017

House Bill No. 6212

*House of Representatives, March 27, 2017*

The Committee on Labor and Public Employees reported through REP. PORTER of the 94th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING EARNED FAMILY AND MEDICAL LEAVE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in this section and  
2 sections 2 to 13, inclusive, of this act:

3 (1) "Covered employee" means an individual who (A) (i) has earned  
4 not less than two thousand three hundred twenty-five dollars, or such  
5 minimum earning threshold as is prescribed by the Labor  
6 Commissioner pursuant to subsection (f) of section 2 of this act, from  
7 one or more employers during the employee's highest earning quarter  
8 within the five most recently completed calendar quarters, and (ii) is  
9 employed by an employer or not currently employed, or (B) is a self-  
10 employed person or sole proprietor who is enrolled in the Family and  
11 Medical Leave Compensation Program pursuant to section 8 of this  
12 act;

13 (2) "Administrator" means the Labor Department;

14 (3) "Employ" means to allow or permit to work;

15 (4) "Employee" means any person engaged in service to an employer  
16 in the state in the business of the employer and shall include a self-  
17 employed person or sole proprietor in the state who elects coverage  
18 under section 8 of this act;

19 (5) "Employer" means a person engaged in any activity, enterprise  
20 or business who employs two or more employees, and includes any  
21 person who acts, directly or indirectly, in the interest of an employer to  
22 any of the employees of such employer and any successor in interest of  
23 an employer, and shall include a municipality, a local or regional  
24 board of education, or a private or parochial elementary or secondary  
25 school, but shall not include the state. The number of employees of an  
26 employer shall be determined by the administrator on October first  
27 annually;

28 (6) "Family and medical leave compensation" or "compensation"  
29 means the paid leave provided to covered employees from the Family  
30 and Medical Leave Compensation Trust Fund;

31 (7) "Family and Medical Leave Compensation Program" or  
32 "program" means the program established pursuant to section 2 of this  
33 act;

34 (8) "Family and Medical Leave Compensation Trust Fund" or "trust"  
35 means the trust fund established pursuant to section 3 of this act; and

36 (9) "Person" means one or more individuals, partnerships,  
37 associations, corporations, limited liability companies, business trusts,  
38 legal representatives or any organized group of persons.

39 Sec. 2. (NEW) (*Effective from passage*) (a) There is established a  
40 Family and Medical Leave Compensation Program. The program shall  
41 be administered by the administrator and shall offer up to twelve  
42 workweeks of family and medical leave compensation to covered  
43 employees during any twelve-month period as described in section 31-  
44 511/ of the general statutes, as amended by this act. The administrator

45 shall begin collecting contributions to the Family and Medical Leave  
46 Compensation Trust Fund, established pursuant to section 3 of this act,  
47 on or before July 1, 2019, and shall begin to provide compensation to  
48 covered employees on and after July 1, 2020. For the purposes of this  
49 section and sections 3 to 13, inclusive, of this act, the administrator  
50 shall have the power to (1) determine whether an individual meets the  
51 requirements for compensation under this section; (2) require a  
52 covered employee's claim for compensation pursuant to this section be  
53 supported by certification pursuant to section 31-51mm of the general  
54 statutes, as amended by this act; (3) examine or cause to be produced  
55 or examined, any books, records, documents, contracts or other papers  
56 relevant to the eligibility of a covered employee; (4) summon and  
57 examine under oath such witnesses as may provide information  
58 relevant to a covered employee's claim for family and medical leave  
59 compensation; (5) establish procedures and forms for the filing of  
60 claims for compensation, including the certification required for  
61 establishing eligibility for such compensation; and (6) ensure the  
62 confidentiality of records and documents relating to medical  
63 certifications, recertifications or medical histories of covered  
64 employees or covered employees' family members pursuant to section  
65 31-51oo of the general statutes, as amended by this act.

66 (b) Each employee shall contribute a percentage of his or her weekly  
67 earnings to the Family and Medical Leave Compensation Trust Fund,  
68 in a manner and form as prescribed by the administrator pursuant to  
69 section 6 of this act. Such contributions shall be utilized to provide  
70 compensation to covered employees pursuant to subsections (c) to (e),  
71 inclusive, of this section.

72 (c) (1) The level of weekly compensation offered to covered  
73 employees shall be one hundred per cent of a covered employee's  
74 average weekly earnings during the covered employee's highest  
75 earning quarter within the five most recently completed calendar  
76 quarters preceding the date the leave commences after such earnings  
77 have been reduced by any deduction for federal or state taxes, or both,  
78 and for the federal Insurance Contributions Act, provided such

79 compensation shall not exceed one thousand dollars per week or such  
80 maximum compensation threshold as is prescribed by the Labor  
81 Commissioner pursuant to subdivision (2) of this subsection. If the  
82 Internal Revenue Service determines that family and medical leave  
83 compensation is subject to federal income tax and a covered employee  
84 elects to have federal income tax deducted and withheld from his or  
85 her compensation, the administrator shall deduct and withhold the  
86 amount specified in the United States Internal Revenue Code in a  
87 manner consistent with the state law.

88 (2) Effective July 1, 2020, and not later than each July fifteenth  
89 thereafter, the Labor Commissioner shall announce an adjustment to  
90 the maximum compensation threshold established pursuant to  
91 subdivision (1) of this subsection that shall be equal to the percentage  
92 increase between the last complete calendar year and the previous  
93 calendar year in the consumer price index for urban wage earners and  
94 clerical workers in the northeast urban area of New York-Northern  
95 New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment,  
96 as calculated by the United States Department of Labor's Bureau of  
97 Labor Statistics, with the amount of the maximum compensation  
98 threshold increase rounded to the nearest five cents. The maximum  
99 compensation threshold plus the adjustment announced by the Labor  
100 Commissioner on July fifteenth shall become the new maximum  
101 compensation threshold and shall be effective on the January first  
102 immediately following.

103 (d) A covered employee shall receive compensation under this  
104 section for leave taken for one or more of the reasons listed in  
105 subparagraphs (A) to (E), inclusive, of subdivision (2) of subsection (a)  
106 of section 31-51ll of the general statutes, as amended by this act, or the  
107 reasons listed in subsection (i) of said section or section 31-51ss of the  
108 general statutes, as amended by this act, provided such covered  
109 employee (1) provides notice to the administrator, and such covered  
110 employee's employer, if applicable, of the need for such compensation  
111 in a form and a manner as prescribed by the administrator, and (2)  
112 upon the request of the administrator, provides certification of such

113 covered employee's need for compensation in accordance with the  
114 provisions of section 31-51mm of the general statutes, as amended by  
115 this act, to the administrator and such employer, if applicable.

116 (e) A covered employee may receive compensation under this  
117 section for nonconsecutive hours of leave provided such leave shall  
118 not amount to less than eight hours of leave in any workweek. If  
119 family and medical leave benefits are taken for eight hours or more,  
120 but for less than one full week, such hourly compensation shall be  
121 determined on a pro rata basis at the discretion of the administrator.

122 (f) Effective July 1, 2020, and not later than each July fifteenth  
123 thereafter, the Labor Commissioner shall announce an adjustment to  
124 the minimum earning threshold required for an individual to receive  
125 compensation under this section that shall be equal to the percentage  
126 increase between the last complete calendar year and the previous  
127 calendar year in the consumer price index for urban wage earners and  
128 clerical workers in the northeast urban area of New York-Northern  
129 New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment,  
130 as calculated by the United States Department of Labor's Bureau of  
131 Labor Statistics, with the amount of the minimum earning threshold  
132 increase rounded to the nearest five cents. The minimum earning  
133 threshold plus the adjustment announced by the Labor Commissioner  
134 on July fifteenth shall become the new minimum earning threshold  
135 and shall be effective on the January first immediately following.

136 (g) A covered employee may receive compensation under this  
137 section concurrently with any employer-provided employment  
138 benefits, provided the total compensation of such covered employee  
139 during such period of leave shall not exceed such covered employee's  
140 regular rate of compensation.

141 (h) No covered employee shall receive compensation under this  
142 section concurrently with the provisions of chapter 567 or 568 of the  
143 general statutes or any other state or federal program that provides  
144 wage replacement.

145 (i) Any moneys expended from the General Fund for the purpose of  
146 (1) administering the Family and Medical Leave Compensation  
147 Program, or (2) providing compensation to covered employees shall be  
148 reimbursed to the General Fund by the administrator not later than  
149 October 1, 2019.

150 Sec. 3. (NEW) (*Effective from passage*) (a) There is established a fund  
151 to be known as the "Family and Medical Leave Compensation Trust  
152 Fund" the purpose of which shall be to provide compensation to  
153 covered employees who take leave pursuant to sections 31-51kk to 31-  
154 51qq, inclusive, of the general statutes, as amended by this act, and 31-  
155 51ss of the general statutes, as amended by this act. The Family and  
156 Medical Leave Compensation Trust Fund shall be a nonlapsing fund  
157 held by the State Treasurer separate and apart from all other moneys,  
158 funds and accounts. Investment earnings credited to the trust shall  
159 become part of the trust.

160 (b) The trust shall constitute an instrumentality of the state and shall  
161 perform essential governmental functions, in accordance with the  
162 provisions of this section. The trust shall receive and hold all payments  
163 and deposits or contributions intended for the trust, as well as gifts,  
164 bequests, endowments or federal, state or local grants and any other  
165 funds from any public or private source and all earnings until  
166 disbursed in accordance with the provisions of this section.

167 (c) The amounts on deposit in the trust shall not constitute property  
168 of the state and the trust shall not be construed to be a department,  
169 institution or agency of the state. Amounts on deposit in the trust shall  
170 not be commingled with state funds and the state shall have no claim  
171 to or against, or interest in, such funds. Any contract entered into by or  
172 any obligation of the trust shall not constitute a debt or obligation of  
173 the state and the state shall have no obligation to any designated  
174 beneficiary or any other person on account of the trust and all amounts  
175 obligated to be paid from the trust shall be limited to amounts  
176 available for such obligation on deposit in the trust. The trust shall  
177 continue in existence as long as it holds any deposits or has any

178 obligations and until its existence is terminated by law and upon  
179 termination any unclaimed assets shall return to the state. Property of  
180 the trust shall be governed by section 3-61a of the general statutes.

181 (d) The State Treasurer shall be responsible for the receipt and  
182 investment of moneys held by the trust. The trust shall not receive  
183 deposits in any form other than cash. No depositor or designated  
184 beneficiary may direct the investment of any contributions or amounts  
185 held in the trust other than the specific fund options provided for by  
186 the trust.

187 (e) The assets of the trust shall be used for the purpose of  
188 distributing family and medical leave compensation to covered  
189 employees, educating and informing individuals about the program  
190 and paying the operational, administrative and investment costs of the  
191 trust, including those incurred pursuant to section 6 of this act.

192 Sec. 4. (NEW) (*Effective from passage*) The State Treasurer, on behalf  
193 of the Family and Medical Leave Compensation Trust Fund and for  
194 purposes of the trust, shall:

195 (1) Receive and invest moneys in the trust in any instruments,  
196 obligations, securities or property in accordance with sections 3 and 5  
197 of this act;

198 (2) Procure insurance as the State Treasurer deems necessary to  
199 protect the trust's property, assets, activities or deposits or  
200 contributions to the trust; and

201 (3) Apply for, accept and expend gifts, grants or donations from  
202 public or private sources to carry out the objectives of the trust.

203 Sec. 5. (NEW) (*Effective from passage*) The State Treasurer shall invest  
204 the amounts on deposit in the Family and Medical Leave  
205 Compensation Trust Fund in a manner reasonable and appropriate to  
206 achieve the objectives of the trust, exercising the discretion and care of  
207 a prudent person in similar circumstances with similar objectives. The  
208 State Treasurer shall give due consideration to rate of return, risk, term

209 or maturity, diversification of the total portfolio within the trust,  
210 liquidity, the projected disbursements and expenditures and the  
211 expected payments, deposits, contributions and gifts to be received.  
212 The State Treasurer shall not require the trust to invest directly in  
213 obligations of the state or any political subdivision of the state or in  
214 any investment or other fund administered by the State Treasurer. The  
215 assets of the trust shall be continuously invested and reinvested in a  
216 manner consistent with the objectives of the trust until disbursed upon  
217 order of the administrator or expended on expenses incurred by the  
218 operations of the trust.

219 Sec. 6. (NEW) (*Effective from passage*) The administrator, in  
220 consultation with the State Treasurer and the Department of Revenue  
221 Services, shall establish the procedures necessary to implement the  
222 Family and Medical Leave Compensation Program. The administrator  
223 shall:

224 (1) Design, establish and operate the program to ensure  
225 transparency in the management of the program and the Family and  
226 Medical Leave Compensation Trust Fund through oversight and ethics  
227 review of plan fiduciaries;

228 (2) Design and establish the process by which employees shall  
229 contribute a portion of their salary or wages to the trust. This process  
230 shall include, but not be limited to, the creation of an information  
231 packet including the necessary paperwork for an employee to  
232 participate in the program pursuant to section 8 of this act;

233 (3) Evaluate and establish the process by which employers may  
234 credit employee contributions to the trust through payroll deposit;

235 (4) Determine the amount of employee contributions necessary to  
236 ensure solvency of the program, provided that total contributions shall  
237 not be less than four million dollars per month;

238 (5) Ensure that contributions to the trust collected from employees  
239 shall not be used for any purpose other than to provide compensation



240 to covered employees or to satisfy any expenses, including employee  
241 costs, incurred to implement, maintain, advertise and administer the  
242 program;

243 (6) Establish and maintain a secure Internet web site that displays all  
244 public notices issued by the administrator and such other information  
245 as the administrator deems relevant and necessary for the education of  
246 the public regarding the program; and

247 (7) Not later than January 1, 2018, submit a report, in accordance  
248 with the provisions of section 11-4a of the general statutes, to the  
249 General Assembly regarding any recommendations for legislative  
250 action that may be necessary for the implementation of the program.

251 Sec. 7. (NEW) (*Effective January 1, 2019*) The administrator, in  
252 consultation with the State Treasurer, shall conduct a public education  
253 campaign to inform individuals and employers about the Family and  
254 Medical Leave Compensation Program. Such campaign shall include,  
255 but not be limited to, information about the requirements for receiving  
256 family and medical leave compensation, how to apply for such  
257 compensation and the circumstances for which such compensation  
258 may be available. The administrator may use funds contributed to the  
259 Family and Medical Leave Compensation Trust Fund for purposes of  
260 the public education campaign. Information distributed or made  
261 available under the campaign shall be available in English and Spanish  
262 and in any other language as prescribed by the administrator.

263 Sec. 8. (NEW) (*Effective from passage*) (a) A self-employed person or  
264 sole proprietor, upon application to the administrator, in a form and  
265 manner as prescribed by the administrator, may enroll in the Family  
266 and Medical Leave Compensation Program, provided such self-  
267 employed person or sole proprietor is enrolled in the program for an  
268 initial period of not less than three years. Such self-employed person or  
269 sole proprietor may reenroll in the program for a subsequent period,  
270 or periods, of not less than one year, provided (1) such self-employed  
271 person or sole proprietor provides written notice of such reenrollment  
272 to the administrator, and (2) such reenrollment begins immediately

273 following a period of participation in the program.

274 (b) A self-employed person or sole proprietor may withdraw from  
275 the program upon submitting written notice to the administrator not  
276 less than thirty days prior to the expiration of the initial enrollment  
277 period, or at such other times as the administrator may prescribe by  
278 rule.

279 Sec. 9. (NEW) (*Effective from passage*) Any covered employee, or self-  
280 employed person or sole proprietor participating in the program,  
281 aggrieved by a denial of compensation under the Family and Medical  
282 Leave Compensation Program may file a complaint with the Labor  
283 Commissioner. Upon receipt of any such complaint, the commissioner  
284 shall hold a hearing. After the hearing, the commissioner shall send  
285 each party a written copy of the commissioner's decision. The  
286 commissioner may award the covered employee, or self-employed  
287 person or sole proprietor, all appropriate relief, including any  
288 compensation or benefits to which the employee otherwise would  
289 have been eligible if such denial had not occurred. Any party  
290 aggrieved by the decision of the commissioner may appeal the  
291 decision to the Superior Court in accordance with the provisions of  
292 chapter 54 of the general statutes.

293 Sec. 10. (NEW) (*Effective January 1, 2020*) Each employer shall, at the  
294 time of hiring, and annually thereafter, provide notice to each of the  
295 employer's employees (1) of the entitlement to family and medical  
296 leave under sections 31-51kk to 31-51qq, inclusive, of the general  
297 statutes, as amended by this act, and 31-51ss of the general statutes, as  
298 amended by this act, and the terms under which such leave may be  
299 used, (2) that retaliation by the employer against the employee for  
300 requesting, applying for or using family and medical leave for which  
301 the employee is eligible is prohibited, and (3) that the employee has a  
302 right to file a complaint with the Labor Commissioner for any violation  
303 of said sections. Employers shall comply with the provisions of this  
304 section by displaying a poster in a conspicuous place, accessible to  
305 employees, at the employer's place of business that contains the

306 information required by this section in both English and Spanish. The  
307 Labor Commissioner may adopt regulations, in accordance with  
308 chapter 54 of the general statutes, to establish additional requirements  
309 concerning the means by which employers shall provide such notice.

310 Sec. 11. (NEW) (*Effective from passage*) (a) Any individual or covered  
311 employee participating in the program who wilfully makes a false  
312 statement or misrepresentation regarding a material fact, or wilfully  
313 fails to report a material fact, to obtain family and medical leave  
314 compensation shall be disqualified from receiving any compensation  
315 under the program for one year.

316 (b) If family and medical leave compensation is paid to an  
317 individual or covered employee erroneously or as a result of wilful  
318 misrepresentation by such individual or covered employee, or if a  
319 claim for family and medical leave compensation is rejected after  
320 compensation is paid, the administrator may seek repayment of  
321 benefits from the individual or covered employee having received  
322 such compensation. The Labor Commissioner may, in his or her  
323 discretion, waive, in whole or in part, the amount of any such  
324 payments where the recovery would be against equity and good  
325 conscience.

326 Sec. 12. (NEW) (*Effective from passage*) (a) The provisions of sections 2  
327 to 13, inclusive, of this act are severable and if any provision is  
328 determined to contravene state or federal law, the remainder of  
329 sections 2 to 13, inclusive, of this act shall remain in full force and  
330 effect.

331 (b) Nothing in sections 31-51kk to 31-51qq, inclusive, of the general  
332 statutes, as amended by this act, and 31-51ss of the general statutes, as  
333 amended by this act, or sections 2 to 13, inclusive, of this act, shall be  
334 construed to (1) prevent employers from providing any benefits that  
335 are more expansive than those provided for under said sections, (2)  
336 diminish any rights provided to any covered employee under the  
337 terms of the covered employee's employment or a collective  
338 bargaining agreement, or (3) preempt or override the terms of any

339 collective bargaining agreement effective prior to the effective date of  
340 this section.

341 Sec. 13. (NEW) (*Effective from passage*) Not later than July 1, 2021, and  
342 annually thereafter, the Labor Commissioner shall report, in  
343 accordance with section 11-4a of the general statutes, to the joint  
344 standing committees of the General Assembly having cognizance of  
345 matters relating to appropriations and the budgets of state agencies  
346 and labor, on (1) the projected and actual participation in the program,  
347 (2) the balance of the trust, (3) the size of employers at which covered  
348 employees are employed, (4) the reasons covered employees are  
349 receiving family and medical leave compensation, (5) the success of the  
350 administrator's outreach and education efforts, and (6) demographic  
351 information of covered employees, including gender, age, town of  
352 residence and income level.

353 Sec. 14. Section 31-51kk of the general statutes is repealed and the  
354 following is substituted in lieu thereof (*Effective July 1, 2020*):

355 As used in sections 31-51kk to 31-51qq, inclusive, as amended by  
356 this act:

357 (1) "Eligible employee" means an [employee] individual who [has  
358 been employed (A) for at least twelve months by the employer with  
359 respect to whom leave is requested; and (B) for at least one thousand  
360 hours of service with such employer during the twelve-month period  
361 preceding the first day of the leave;] (A) has earned not less than two  
362 thousand three hundred twenty-five dollars, or such minimum  
363 earning threshold established by the Labor Commissioner pursuant to  
364 subsection (f) of section 2 of this act, from one or more employers  
365 during the employee's highest earning quarter within the five most  
366 recently completed calendar quarters, and (B) is employed by an  
367 employer or not currently employed;

368 (2) "Employ" includes to allow or permit to work;

369 (3) "Employee" means any person engaged in service to an employer

370 in the business of the employer;

371 (4) "Employer" means a person engaged in any activity, enterprise  
372 or business who employs [seventy-five] two or more employees, and  
373 includes any person who acts, directly or indirectly, in the interest of  
374 an employer to any of the employees of such employer and any  
375 successor in interest of an employer, [but shall not] and shall include  
376 [the state,] a municipality, a local or regional board of education, or a  
377 private or parochial elementary or secondary school, but shall not  
378 include the state. The number of employees of an employer shall be  
379 determined on October first annually;

380 (5) "Employment benefits" means all benefits provided or made  
381 available to employees by an employer, including group life insurance,  
382 health insurance, disability insurance, sick leave, annual leave,  
383 educational benefits and pensions, regardless of whether such benefits  
384 are provided by practice or written policy of an employer or through  
385 an "employee benefit plan", as defined in Section 1002(3) of Title 29 of  
386 the United States Code;

387 (6) "Grandchild" means a grandchild related to a person by (A)  
388 blood, (B) marriage, or (C) adoption by a child of the grandparent;

389 (7) "Grandparent" means a grandparent related to a person by (A)  
390 blood, (B) marriage, or (C) adoption of a minor child by a child of the  
391 grandparent;

392 ~~[(6)]~~ (8) "Health care provider" means (A) a doctor of medicine or  
393 osteopathy who is authorized to practice medicine or surgery by the  
394 state in which the doctor practices; (B) a podiatrist, dentist,  
395 psychologist, optometrist or chiropractor authorized to practice by the  
396 state in which such person practices and performs within the scope of  
397 the authorized practice; (C) an advanced practice registered nurse,  
398 nurse practitioner, nurse midwife or clinical social worker authorized  
399 to practice by the state in which such person practices and performs  
400 within the scope of the authorized practice; (D) Christian Science  
401 practitioners listed with the First Church of Christ, Scientist in Boston,

402 Massachusetts; (E) any health care provider from whom an employer  
403 or a group health plan's benefits manager will accept certification of  
404 the existence of a serious health condition to substantiate a claim for  
405 benefits; (F) a health care provider as defined in subparagraphs (A) to  
406 (E), inclusive, of this subdivision who practices in a country other than  
407 the United States, who is licensed to practice in accordance with the  
408 laws and regulations of that country; or (G) such other health care  
409 provider as the Labor Commissioner determines, performing within  
410 the scope of the authorized practice. The commissioner may utilize any  
411 determinations made pursuant to chapter 568;

412 [(7)] (9) "Parent" means a biological parent, foster parent, adoptive  
413 parent, stepparent, parent-in-law or legal guardian of an eligible  
414 employee or an eligible employee's spouse, or an individual [who  
415 stood] standing in loco parentis to an eligible employee; [when the  
416 employee was a son or daughter;]

417 [(8)] (10) "Person" means one or more individuals, partnerships,  
418 associations, corporations, business trusts, legal representatives or  
419 organized groups of persons;

420 [(9)] (11) "Reduced leave schedule" means a leave schedule that  
421 reduces the usual number of hours per workweek, or hours per  
422 workday, of an employee;

423 [(10)] (12) "Serious health condition" means an illness, injury,  
424 impairment, or physical or mental condition that involves (A) inpatient  
425 care in a hospital, hospice, nursing home or residential medical care  
426 facility; or (B) continuing treatment, including outpatient treatment, by  
427 a health care provider;

428 (13) "Sibling" means a brother or sister related to a person by (A)  
429 blood, (B) marriage, or (C) adoption by a parent of the person;

430 [(11)] (14) "Son or daughter" means a biological, adopted or foster  
431 child, stepchild, legal ward, or, in the alternative, a child of a person  
432 standing in loco parentis; [ who is (A) under eighteen years of age; or

433 (B) eighteen years of age or older and incapable of self-care because of  
434 a mental or physical disability;] and

435 [(12)] (15) "Spouse" means a [husband or wife, as the case may be]  
436 person to whom one is legally married.

437 Sec. 15. Section 31-51ll of the general statutes is repealed and the  
438 following is substituted in lieu thereof (*Effective July 1, 2020*):

439 (a) (1) Subject to section 31-51mm, as amended by this act, an  
440 eligible employee shall be entitled to a total of [sixteen] twelve  
441 workweeks of leave, which may be compensated under the Family and  
442 Medical Leave Compensation Program established pursuant to section  
443 2 of this act, during any [twenty-four-month] twelve-month period. [,  
444 such twenty-four-month] Such twelve-month period [to be] shall be  
445 determined utilizing any one of the following methods: (A)  
446 [Consecutive calendar years] Calendar year; (B) any fixed [twenty-  
447 four-month] twelve-month period, such as [two consecutive fiscal  
448 years] a fiscal year or a [twenty-four-month] twelve-month period  
449 measured forward from an employee's first date of employment; (C) a  
450 [twenty-four-month] twelve-month period measured forward from an  
451 employee's first day of leave taken under sections 31-51kk to 31-51qq,  
452 inclusive, as amended by this act; or (D) a rolling [twenty-four-month]  
453 twelve-month period measured backward from an employee's first  
454 day of leave taken under sections 31-51kk to 31-51qq, inclusive, as  
455 amended by this act.

456 (2) Leave under this subsection may be taken for one or more of the  
457 following reasons:

458 (A) Upon the birth of a son or daughter of the employee;

459 (B) Upon the placement of a son or daughter with the employee for  
460 adoption or foster care;

461 (C) In order to care for the spouse, [or a son,] sibling, son or  
462 daughter, grandparent, grandchild or parent of the employee, if such  
463 spouse, [son,] sibling, son or daughter, grandparent, grandchild or

464 parent has a serious health condition;

465 (D) Because of a serious health condition of the employee;

466 (E) In order to serve as an organ or bone marrow donor; or

467 (F) Because of any qualifying exigency, as determined in regulations  
468 adopted by the United States Secretary of Labor, arising out of the fact  
469 that the spouse, son, daughter or parent of the employee is on active  
470 duty, or has been notified of an impending call or order to active duty,  
471 in the armed forces, as defined in subsection (a) of section 27-103.

472 (b) Entitlement to leave under subparagraph (A) or (B) of  
473 subdivision (2) of subsection (a) of this section may accrue prior to the  
474 birth or placement of a son or daughter when such leave is required  
475 because of such impending birth or placement.

476 (c) (1) Leave under subparagraph (A) or (B) of subdivision (2) of  
477 subsection (a) of this section for the birth or placement of a son or  
478 daughter may not be taken by an employee intermittently or on a  
479 reduced leave schedule unless the employee and the employer agree  
480 otherwise. Subject to subdivision (2) of this subsection concerning an  
481 alternative position, subdivision (2) of subsection (f) of this section  
482 concerning the duties of the employee and subdivision (5) of  
483 subsection (b) of section 31-51mm, as amended by this act, concerning  
484 sufficient certification, leave under subparagraph (C) or (D) of  
485 subdivision (2) of subsection (a) or under subsection (i) of this section  
486 for a serious health condition may be taken intermittently or on a  
487 reduced leave schedule when medically necessary. The taking of leave  
488 intermittently or on a reduced leave schedule pursuant to this  
489 subsection shall not result in a reduction of the total amount of leave to  
490 which the employee is entitled under subsection (a) of this section  
491 beyond the amount of leave actually taken.

492 (2) If an employee requests intermittent leave or leave on a reduced  
493 leave schedule under subparagraph (C), (D) or (E) of subdivision (2) of  
494 subsection (a) or under subsection (i) of this section that is foreseeable



495 based on planned medical treatment, the employer may require the  
496 employee to transfer temporarily to an available alternative position  
497 offered by the employer for which the employee is qualified and that  
498 (A) has equivalent pay and benefits, and (B) better accommodates  
499 recurring periods of leave than the regular employment position of the  
500 employee, provided the exercise of this authority shall not conflict  
501 with any provision of a collective bargaining agreement between such  
502 employer and a labor organization which is the collective bargaining  
503 representative of the unit of which the employee is a part.

504 (d) Except as provided in subsection (e) of this section, leave  
505 granted under subsection (a) of this section may consist of unpaid  
506 leave.

507 (e) (1) If an employer provides paid leave for fewer than [sixteen]  
508 twelve workweeks, the additional weeks of leave necessary to attain  
509 the [sixteen] twelve workweeks of leave required under sections 5-  
510 248a and 31-51kk to 31-51qq, inclusive, as amended by this act, may be  
511 provided without compensation or with compensation through the  
512 Family and Medical Leave Compensation Program established  
513 pursuant to section 2 of this act.

514 (2) (A) An eligible employee may elect [, or an employer may  
515 require the employee,] to substitute any of the accrued paid vacation  
516 leave, personal leave or family leave of the employee for leave  
517 provided under subparagraph (A), (B) or (C) of subdivision (2) of  
518 subsection (a) of this section for any part of the [sixteen-week] twelve-  
519 week period of such leave under said subsection or under subsection  
520 (i) of this section for any part of the twenty-six-week period of such  
521 leave.

522 (B) An eligible employee may elect [, or an employer may require  
523 the employee,] to substitute any of the accrued paid vacation leave,  
524 personal leave, or medical or sick leave of the employee for leave  
525 provided under subparagraph (C), (D) or (E) of subdivision (2) of  
526 subsection (a) of this section for any part of the [sixteen-week] twelve-  
527 week period of such leave under said subsection or under subsection

528 (i) of this section for any part of the twenty-six-week period of leave,  
529 except that nothing in section 5-248a or sections 31-51kk to 31-51qq,  
530 inclusive, as amended by this act, shall require an employer to provide  
531 paid sick leave or paid medical leave in any situation in which such  
532 employer would not normally provide any such paid leave.

533 (f) (1) In any case in which the necessity for leave under  
534 subparagraph (A) or (B) of subdivision (2) of subsection (a) of this  
535 section is foreseeable based on an expected birth or placement of a son  
536 or daughter, the employee shall provide the employer with not less  
537 than thirty days' notice, before the date of the leave is to begin, of the  
538 employee's intention to take leave under said subparagraph (A) or (B),  
539 except that if the date of the birth or placement of a son or daughter  
540 requires leave to begin in less than thirty days, the employee shall  
541 provide such notice as is practicable.

542 (2) In any case in which the necessity for leave under subparagraph  
543 (C), (D) or (E) of subdivision (2) of subsection (a) or under subsection  
544 (i) of this section is foreseeable based on planned medical treatment,  
545 the employee (A) shall make a reasonable effort to schedule the  
546 treatment so as not to disrupt unduly the operations of the employer,  
547 subject to the approval of the health care provider of the employee or  
548 the health care provider of the spouse, sibling, son [,] or daughter,  
549 [spouse] grandparent, grandchild or parent of the employee, as  
550 appropriate; and (B) shall provide the employer with not less than  
551 thirty days' notice, before the date the leave is to begin, of the  
552 employee's intention to take leave under said subparagraph (C), (D) or  
553 (E) or said subsection (i), except that if the date of the treatment  
554 requires leave to begin in less than thirty days, the employee shall  
555 provide such notice as is practicable.

556 (g) In any case in which [a husband and wife] two spouses entitled  
557 to leave under subsection (a) of this section are employed by the same  
558 employer, the aggregate number of workweeks of leave to which both  
559 may be entitled may be limited to [sixteen] twelve workweeks, which  
560 may be compensated under the Family and Medical Leave

561 Compensation Program established pursuant to section 2 of this act,  
562 during any [twenty-four-month] twelve-month period, if such leave is  
563 taken: (1) Under subparagraph (A) or (B) of subdivision (2) of  
564 subsection (a) of this section; or (2) to care for a sick sibling, son or  
565 daughter, grandparent, grandchild, or parent under subparagraph (C)  
566 of said subdivision. In any case in which [a husband and wife] two  
567 spouses entitled to leave under subsection (i) of this section are  
568 employed by the same employer, the aggregate number of workweeks  
569 of leave to which both may be entitled may be limited to twenty-six  
570 workweeks, twelve weeks of which may be compensated under the  
571 Family and Medical Leave Compensation Program established  
572 pursuant to section 2 of this act, during any twelve-month period.

573 (h) Unpaid leave taken pursuant to sections 5-248a and 31-51kk to  
574 31-51qq, inclusive, as amended by this act, shall not be construed to  
575 affect an employee's qualification for exemption under chapter 558.

576 (i) Subject to section 31-51mm, as amended by this act, an eligible  
577 employee who is the spouse, sibling, son or daughter, grandparent,  
578 grandchild, parent or next of kin of a current member of the armed  
579 forces, as defined in section 27-103, who is undergoing medical  
580 treatment, recuperation or therapy, is otherwise in outpatient status or  
581 is on the temporary disability retired list for a serious injury or illness  
582 incurred in the line of duty shall be entitled to a one-time benefit of  
583 twenty-six workweeks of leave, up to twelve weeks of which may be  
584 compensated under the Family and Medical Leave Compensation  
585 Program established pursuant to section 2 of this act, during any  
586 twelve-month period for each armed forces member per serious injury  
587 or illness incurred in the line of duty. Such twelve-month period shall  
588 commence on an employee's first day of leave taken to care for a  
589 covered armed forces member and end on the date twelve months  
590 after such first day of leave. For the purposes of this subsection, (1)  
591 "next of kin" means the armed forces member's nearest blood relative,  
592 other than the covered armed forces member's spouse, [parent] sibling,  
593 son or daughter, grandparent, grandchild or parent, in the following  
594 order of priority: Blood relatives who have been granted legal custody

595 of the armed forces member by court decree or statutory provisions,  
596 brothers and sisters, grandparents, aunts and uncles, and first cousins,  
597 unless the covered armed forces member has specifically designated in  
598 writing another blood relative as his or her nearest blood relative for  
599 purposes of military caregiver leave, in which case the designated  
600 individual shall be deemed to be the covered armed forces member's  
601 next of kin; and (2) "son or daughter" means a biological, adopted or  
602 foster child, stepchild, legal ward or child for whom the eligible  
603 employee or armed forces member stood in loco parentis and who is  
604 any age.

605 (j) Leave taken pursuant to sections 31-51kk to 31-51qq, inclusive, as  
606 amended by this act, shall not run concurrently with the provisions of  
607 section 31-313.

608 (k) Notwithstanding the provisions of sections 5-248a and 31-51kk  
609 to 31-51qq, inclusive, as amended by this act, all further rights granted  
610 by federal law shall remain in effect.

611 Sec. 16. Section 31-51mm of the general statutes is repealed and the  
612 following is substituted in lieu thereof (*Effective July 1, 2020*):

613 (a) An employer may require that request for leave based on a  
614 serious health condition in subparagraph (C) or (D) of subdivision (2)  
615 of subsection (a) of section 31-51ll, as amended by this act, or leave  
616 based on subsection (i) of section 31-51ll, as amended by this act, be  
617 supported by a certification issued by the health care provider of the  
618 eligible employee or of the spouse, sibling, son [.] or daughter,  
619 [spouse] grandparent, grandchild, parent or next of kin of the  
620 employee, as appropriate. The employee shall provide, in a timely  
621 manner, a copy of such certification to the employer.

622 (b) Certification provided under subsection (a) of this section shall  
623 be sufficient if it states:

624 (1) The date on which the serious health condition commenced;

625 (2) The probable duration of the condition;

626 (3) The appropriate medical facts within the knowledge of the  
627 health care provider regarding the condition;

628 (4) (A) For purposes of leave under subparagraph (C) of subdivision  
629 (2) of subsection (a) of section 31-51ll, as amended by this act, a  
630 statement that the eligible employee is needed to care for the spouse,  
631 sibling, son [,] or daughter, [spouse] grandparent, grandchild or parent  
632 and an estimate of the amount of time that such employee needs to  
633 care for the spouse, sibling, son [,] or daughter, [spouse] grandparent,  
634 grandchild or parent; and (B) for purposes of leave under  
635 subparagraph (D) of subdivision (2) of subsection (a) of section 31-51ll,  
636 as amended by this act, a statement that the employee is unable to  
637 perform the functions of the position of the employee;

638 (5) In the case of certification for intermittent leave or leave on a  
639 reduced leave schedule for planned medical treatment, the dates on  
640 which such treatment is expected to be given and the duration of such  
641 treatment;

642 (6) In the case of certification for intermittent leave or leave on a  
643 reduced leave schedule under subparagraph (D) of subdivision (2) of  
644 subsection (a) of section 31-51ll, as amended by this act, a statement of  
645 the medical necessity of the intermittent leave or leave on a reduced  
646 leave schedule, and the expected duration of the intermittent leave or  
647 reduced leave schedule;

648 (7) In the case of certification for intermittent leave or leave on a  
649 reduced leave schedule under subparagraph (C) of subdivision (2) of  
650 subsection (a) of section 31-51ll, as amended by this act, a statement  
651 that the employee's intermittent leave or leave on a reduced leave  
652 schedule is necessary for the care of the spouse, sibling, son [,] or  
653 daughter, grandparent, grandchild, or parent [or spouse] who has a  
654 serious health condition, or will assist in their recovery, and the  
655 expected duration and schedule of the intermittent leave or reduced  
656 leave schedule; and

657 (8) In the case of certification for intermittent leave or leave on a

658 reduced leave schedule under subsection (i) of section 31-51ll, as  
659 amended by this act, a statement that the employee's intermittent leave  
660 or leave on a reduced leave schedule is necessary for the care of the  
661 spouse, sibling, son or daughter, grandparent, grandchild, parent or  
662 next of kin who is a current member of the armed forces, as defined in  
663 section 27-103, who is undergoing medical treatment, recuperation or  
664 therapy, is otherwise in outpatient status or is on the temporary  
665 disability retired list, for a serious injury or illness incurred in the line  
666 of duty, and the expected duration and schedule of the intermittent  
667 leave or reduced leave schedule. For the purposes of this subsection,  
668 "son or daughter" and "next of kin" have the same meanings as  
669 provided in subsection (i) of section 31-51ll, as amended by this act.

670 (c) (1) In any case in which the employer has reason to doubt the  
671 validity of the certification provided under subsection (a) of this  
672 section for leave under subparagraph (C) or (D) of subdivision (2) of  
673 subsection (a) or under subsection (i) of section 31-51ll, as amended by  
674 this act, the employer may require, at the expense of the employer, that  
675 the eligible employee obtain the opinion of a second health care  
676 provider designated or approved by the employer concerning any  
677 information certified under subsection (b) of this section for such leave.

678 (2) A health care provider designated or approved under  
679 subdivision (1) of this subsection shall not be employed on a regular  
680 basis by the employer.

681 (d) (1) In any case in which the second opinion described in  
682 subsection (c) of this section differs from the opinion in the original  
683 certification provided under subsection (a) of this section, the  
684 employer may require, at the expense of the employer, that the  
685 employee obtain the opinion of a third health care provider designated  
686 or approved jointly by the employer and the employee concerning the  
687 information certified under subsection (b) of this section.

688 (2) The opinion of the third health care provider concerning the  
689 information certified under subsection (b) of this section shall be  
690 considered to be final and shall be binding on the employer and the

691 employee.

692 (e) The employer may require that the eligible employee obtain  
693 subsequent recertifications on a reasonable basis, provided the  
694 standards for determining what constitutes a reasonable basis for  
695 recertification may be governed by a collective bargaining agreement  
696 between such employer and a labor organization which is the  
697 collective bargaining representative of the unit of which the worker is  
698 a part if such a collective bargaining agreement is in effect. Unless  
699 otherwise required by the employee's health care provider, the  
700 employer may not require recertification more than once during a  
701 thirty-day period and, in any case, may not unreasonably require  
702 recertification. The employer shall pay for any recertification that is not  
703 covered by the employee's health insurance.

704 Sec. 17. Section 31-51oo of the general statutes is repealed and the  
705 following is substituted in lieu thereof (*Effective July 1, 2020*):

706 Records and documents relating to medical certifications,  
707 recertifications or medical histories of employees or employees' family  
708 members, created for purposes of sections 5-248a and 31-51kk to 31-  
709 51qq, inclusive, as amended by this act, and sections 2 to 13, inclusive,  
710 of this act shall be maintained as medical records pursuant to chapter  
711 563a, except that: (1) Supervisors and managers may be informed  
712 regarding necessary restrictions on the work or duties of an employee  
713 and necessary accommodations; (2) first aid and safety personnel may  
714 be informed, when appropriate, if the employee's physical or medical  
715 condition might require emergency treatment; and (3) government  
716 officials investigating compliance with sections 5-248a and 31-51kk to  
717 31-51qq, inclusive, as amended by this act, and sections 2 to 13,  
718 inclusive, of this act, or other pertinent law shall be provided relevant  
719 information upon request.

720 Sec. 18. Section 31-51pp of the general statutes is repealed and the  
721 following is substituted in lieu thereof (*Effective July 1, 2020*):

722 (a) (1) It shall be a violation of sections 5-248a and 31-51kk to 31-

723 51qq, inclusive, as amended by this act, for any employer to interfere  
724 with, restrain or deny the exercise of, or the attempt to exercise, any  
725 right provided under said sections.

726 (2) It shall be a violation of sections 5-248a and 31-51kk to 31-51qq,  
727 inclusive, as amended by this act, for any employer to discharge or  
728 cause to be discharged, or in any other manner discriminate, against  
729 any individual for opposing any practice made unlawful by said  
730 sections or because such employee has exercised the rights afforded to  
731 such employee under said sections.

732 (b) It shall be a violation of sections 5-248a and 31-51kk to 31-51qq,  
733 inclusive, as amended by this act, for any person to discharge or cause  
734 to be discharged, or in any other manner discriminate, against any  
735 individual because such individual:

736 (1) Has filed any charge, or has instituted or caused to be instituted  
737 any proceeding, under or related to sections 5-248a and 31-51kk to 31-  
738 51qq, inclusive, as amended by this act;

739 (2) Has given, or is about to give, any information in connection  
740 with any inquiry or proceeding relating to any right provided under  
741 said sections; or

742 (3) Has testified, or is about to testify, in any inquiry or proceeding  
743 relating to any right provided under said sections.

744 (c) (1) It shall be a violation of sections 31-51kk to 31-51qq, inclusive,  
745 as amended by this act, for any employer to deny an employee the  
746 right to use up to two weeks of accumulated sick leave or to discharge,  
747 threaten to discharge, demote, suspend or in any manner discriminate  
748 against an employee for using, or attempting to exercise the right to  
749 use, up to two weeks of accumulated sick leave to attend to a serious  
750 health condition of a spouse, sibling, son or daughter, [spouse]  
751 grandparent, grandchild or parent of the employee, or for the birth or  
752 adoption of a son or daughter of the employee. For purposes of this  
753 subsection, "sick leave" means an absence from work for which



754 compensation is provided through (A) an employer's bona fide written  
755 policy providing compensation for loss of wages occasioned by illness,  
756 or (B) the Family and Medical Leave Compensation Program  
757 established pursuant to section 2 of this act, but does not include  
758 absences from work for which compensation is provided through an  
759 employer's plan, including, but not limited to, a short or long-term  
760 disability plan, whether or not such plan is self-insured.

761 (2) Any employee aggrieved by a violation of this subsection may  
762 file a complaint with the Labor Commissioner alleging violation of the  
763 provisions of this subsection. Upon receipt of any such complaint, the  
764 commissioner shall hold a hearing. After the hearing, the  
765 commissioner shall send each party a written copy of the  
766 commissioner's decision. The commissioner may award the employee  
767 all appropriate relief, including rehiring or reinstatement to the  
768 employee's previous job, payment of back wages and reestablishment  
769 of employee benefits to which the employee otherwise would have  
770 been eligible if a violation of this subsection had not occurred. Any  
771 party aggrieved by the decision of the commissioner may appeal the  
772 decision to the Superior Court in accordance with the provisions of  
773 chapter 54.

774 (3) The rights and remedies specified in this subsection are  
775 cumulative and nonexclusive and are in addition to any other rights or  
776 remedies afforded by contract or under other provisions of law.

777 Sec. 19. Section 31-51qq of the general statutes is repealed and the  
778 following is substituted in lieu thereof (*Effective July 1, 2019*):

779 On or before [January 1, 1997] July 1, 2019, the Labor Commissioner  
780 shall adopt regulations, in accordance with the provisions of chapter  
781 54, to establish procedures and guidelines necessary to implement the  
782 provisions of sections [5-248a and] 31-51kk to 31-51qq, inclusive, as  
783 amended by this act, and sections 2 to 13, inclusive, of this act,  
784 including, but not limited to, procedures for hearings and redress,  
785 including restoration and restitution, for an employee who believes  
786 that there is a violation by the employer of such employee of any

787 provision of said sections. [In adopting such regulations, the  
788 commissioner shall make reasonable efforts to ensure compatibility of  
789 state regulatory provisions with similar provisions of the federal  
790 Family and Medical Leave Act of 1993 and the regulations  
791 promulgated pursuant to said act.]

792 Sec. 20. Section 31-51ss of the general statutes is repealed and the  
793 following is substituted in lieu thereof (*Effective July 1, 2020*):

794 (a) For the purposes of this section:

795 (1) "Employer" means a person engaged in business who has three  
796 or more employees, including the state and any political subdivision of  
797 the state;

798 (2) "Employee" means any person engaged in service to an employer  
799 in the business of the employer;

800 (3) "Family violence" means family violence, as defined in section  
801 46b-38a; and

802 (4) "Leave" includes paid or unpaid leave which may include, but is  
803 not limited to, compensatory time, vacation time, personal days off,  
804 leave under the Family and Medical Leave Compensation Program  
805 established pursuant to section 2 of this act or other time off.

806 (b) If an employee is a victim of family violence, an employer shall  
807 permit the employee to take paid or unpaid leave during any calendar  
808 year in which such leave is reasonably necessary (1) to seek medical  
809 care or psychological or other counseling for physical or psychological  
810 injury or disability for the victim, (2) to obtain services from a victim  
811 services organization on behalf of the victim, (3) to relocate due to such  
812 family violence, or (4) to participate in any civil or criminal proceeding  
813 related to or resulting from such family violence. An employer may  
814 limit unpaid leave under this section to twelve days during any  
815 calendar year. Leave under this section shall not affect any other leave  
816 provided under state or federal law.

817 (c) If an employee's need to use leave under this section is  
818 foreseeable, an employer may require advance notice, not to exceed  
819 seven days prior to the date such leave is to begin, of the intention to  
820 use such leave. If an employee's need for such leave is not foreseeable,  
821 an employer may require an employee to give notice of such intention  
822 as soon as practicable.

823 (d) Upon an employer's request, an employee who takes leave  
824 pursuant to this section shall provide the employer a signed written  
825 statement certifying that the leave is for a purpose authorized under  
826 this section. The employer may also, but need not, request that the  
827 employee provide a police or court record related to the family  
828 violence or a signed written statement that the employee is a victim of  
829 family violence, provided such statement is from an employee or agent  
830 of a victim services organization, an attorney, an employee of the  
831 Judicial Branch's Office of Victim Services or the Office of the Victim  
832 Advocate, or a licensed medical professional or other licensed  
833 professional from whom the employee has sought assistance with  
834 respect to the family violence.

835 (e) Nothing in this section shall be construed to (1) prevent  
836 employers from providing more leave than is required under this  
837 section, (2) diminish any rights provided to any employee under the  
838 terms of the employee's employment or a collective bargaining  
839 agreement, or (3) preempt or override the terms of any collective  
840 bargaining agreement effective prior to October 1, 2010.

841 (f) Nothing in this section shall be construed to require an employer  
842 to provide paid leave under this section if (1) the employee is not  
843 entitled to paid leave pursuant to the terms and conditions of the  
844 employee's employment or under the Family and Medical Leave  
845 Compensation Program established pursuant to section 2 of this act, or  
846 (2) such paid leave exceeds the maximum amount of leave due the  
847 employee during any calendar year, provided the employee shall be  
848 entitled to unpaid leave under this section if paid leave is exhausted or  
849 not provided.

850 (g) Any written statement or police or court record provided to an  
 851 employer pursuant to subsection (d) of this section shall be maintained  
 852 as confidential by the employer and shall not be further disclosed by  
 853 the employer except as required by federal or state law or as necessary  
 854 to protect the employee's safety in the workplace, provided the  
 855 employee is given notice prior to the disclosure.

856 (h) If an employer discharges, penalizes or threatens or otherwise  
 857 coerces an employee in violation of this section, the employee, not later  
 858 than one hundred eighty days from the occurrence of such action, may  
 859 bring a civil action for damages and for an order requiring the  
 860 employee's reinstatement or otherwise rescinding such action. If the  
 861 employee prevails, the employee shall be allowed a reasonable  
 862 attorney's fee to be fixed by the court.

863 Sec. 21. Section 3-13c of the general statutes is repealed and the  
 864 following is substituted in lieu thereof (*Effective July 1, 2017*):

865 Trust funds as used in sections 3-13 to 3-13e, inclusive, and 3-31b  
 866 shall be construed to include Connecticut Municipal Employees'  
 867 Retirement Fund A, Connecticut Municipal Employees' Retirement  
 868 Fund B, Soldiers, Sailors and Marines Fund, Family and Medical Leave  
 869 Compensation Trust Fund, State's Attorneys' Retirement Fund,  
 870 Teachers' Annuity Fund, Teachers' Pension Fund, Teachers'  
 871 Survivorship and Dependency Fund, School Fund, State Employees  
 872 Retirement Fund, the Hospital Insurance Fund, Policemen and  
 873 Firemen Survivor's Benefit Fund and all other trust funds  
 874 administered, held or invested by the State Treasurer.

875 Sec. 22. Section 31-51rr of the general statutes is repealed. (*Effective*  
 876 *July 1, 2020*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section

Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>January 1, 2019</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>January 1, 2020</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section
Sec. 13	<i>from passage</i>	New section
Sec. 14	<i>July 1, 2020</i>	31-51kk
Sec. 15	<i>July 1, 2020</i>	31-51ll
Sec. 16	<i>July 1, 2020</i>	31-51mm
Sec. 17	<i>July 1, 2020</i>	31-51oo
Sec. 18	<i>July 1, 2020</i>	31-51pp
Sec. 19	<i>July 1, 2019</i>	31-51qq
Sec. 20	<i>July 1, 2020</i>	31-51ss
Sec. 21	<i>July 1, 2017</i>	3-13c
Sec. 22	<i>July 1, 2020</i>	Repealer section

**LAB**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 18 \$</b>	<b>FY 19 \$</b>
Labor Dept.	GF - Cost	None	See Below
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	None	See Below
Labor Dept.	Family Medical Leave Compensation Trust Fund - Cost/Revenue Gain	None	See Below
Treasurer	GF - Cost	75,000	None
Treasurer	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

#### ***Municipal Impact:***

<b>Municipalities</b>	<b>Effect</b>	<b>FY 18 \$</b>	<b>FY 19 \$</b>
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

### ***Explanation***

The bill expands the state's current Family Medical Leave Act (FMLA) law as it applies to the private sector and municipalities, and establishes a Family and Medical Leave Compensation (FMLC) program. This results in a significant annual state cost beginning in FY 19, as well as a potential cost to various municipalities beginning in FY

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.08% of payroll in FY 18 and FY 19.

21. These impacts are explained in detail below.

### **Expanded FMLA Municipal Impact**

The bill expands private sector FMLA provisions to municipalities. Municipalities must currently comply with federal FMLA requirements. However, there is a potential cost to the extent that the bill requires municipalities to provide benefits beyond what is required under federal FMLA.

For example, a municipality would incur increased costs if an employee who is ineligible for FMLA under current law goes on FMLA leave and has a shift covered by an employee with a higher salary, or by an employee working an overtime shift.

### **Expanded FMLA Administrative Costs**

The bill expands the FMLA law by reducing, from 75 to two, the minimum number of employees that makes an employer subject to FMLA beginning July 1, 2020. The bill also extends allowable leave under FMLA to caring for grandparents, grandchildren, and siblings, in addition to relatives covered under current law. This results in a cost to the Department of Labor (DOL) of \$414,240 beginning in FY 21 and associated with one Principal Attorney (\$100,000 for salary and \$38,080 for fringe costs), two Staff Attorneys (\$75,000 for salary and \$28,560 for fringe costs), and one Administrative Assistant (\$50,000 for salary and \$19,040 for fringe costs).

This estimate is based on the current costs for handling all FMLA inquiries and investigating complaints of alleged violation. There are currently 3,129 employers with 950,117 employees covered by existing FMLA law; it is projected that the bill would expand coverage to include approximately 57,700 employers with approximately 1,587,400 employees.

### **FMLC Program**

The bill establishes the FMLC program to provide wage

replacement benefits to covered employees taking leave under certain circumstances. This results in estimated administrative costs to DOL of approximately \$13.6 million in FY 19 and up to \$18.6 million annually thereafter, including fringe benefits.

The bill specifies the costs of administering the FMLC program are to be covered by the FMLC Trust Fund, which receives revenue from employee contributions as determined by the Labor Commissioner. However, no contributions to the FMLC Trust Fund are anticipated to be collected before July 1, 2019. Consequently, it is assumed the General Fund will cover the costs of the program until such time that FMLC Trust Fund revenues are sufficient.<sup>2</sup>

The FY 19 start-up costs include approximately \$4.7 million in salaries and fringe costs, \$7.7 million for information technology, \$776,700 for overhead and capital needs, and \$340,000 for outreach and marketing. The fully annualized cost of program administration increases to approximately \$18.6 million beginning as early as FY 20.

The bill results in one-time costs associated with the establishment of the FMLC Trust Fund of up to \$75,000, which includes funding for legal fees and asset allocation consultation.

There will be ongoing annual administrative and investment costs associated with the FMLC as a result of the bill. When fully funded, these costs will be paid for by the investment fund itself. To the extent that there are ongoing administrative and investment costs prior to funding being available in the FMLC, these costs will initially be paid through the General Fund before being reimbursed by the FMLC.

Administrative cost estimates are based on the costs identified in the "Implementing Paid Family and Medical Leave Insurance Connecticut" report undertaken by the Institute for Women's Policy

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<sup>2</sup> The bill specifies that any funds expended from the General Fund for the purpose of administering the FMLC program be reimbursed no later than October 1, 2019.



Research pursuant to a contract with the Labor Department.<sup>3</sup>

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Institute for Women's Policy Research "Implementing Paid Family and Medical Leave Insurance Connecticut"*

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<sup>3</sup> Section 413 of PA 15-5 JSS required the Labor Commissioner to contract with a consultant to create an implementation plan for a paid family and medical leave program by October 1, 2015, including an actuarial analysis and report on the employee contribution level needed to ensure sustainable funding and administration for the program.

**OLR Bill Analysis****HB 6212*****AN ACT CONCERNING EARNED FAMILY AND MEDICAL LEAVE.*****SUMMARY**

This bill creates the Family and Medical Leave Compensation (FMLC) program to provide wage replacement benefits to certain employees taking leave under the state's Family and Medical Leave Act (FMLA) or the family violence leave law, as amended by the bill. It provides them with up to 12 weeks of FMLC benefits over a 12-month period in an amount equal to the employee's average weekly net earnings during their highest earning quarter within the five most recently completed calendar quarters, up to a maximum of \$1,000 per week (or an inflation adjusted equivalent). The program is funded by employee contributions. It does not cover the state or state employees and any references to "employers" or "employees" below do not include them.

Under the bill, employees eligible for benefits ("covered employees") are:

1. people who earned at least \$2,325 (or an inflation adjusted equivalent) from one or more employers during their highest earning quarter within the five most recently completed calendar quarters and are (a) employed by an employer with at least two employees or (b) unemployed and
2. sole practitioners and self-employed people who enroll in the program.

The bill requires the Department of Labor (DOL) to administer the FMLC program and, among other things, determine the amount that employees must contribute to the program to ensure (1) its solvency

and (2) that total employee contributions are at least \$4 million per month. By July 1, 2019, DOL must begin collecting contributions from employees who work for employers with at least two employees and the self-employed and sole proprietors who enroll in the program. The program must begin paying FMLC benefits by July 1, 2020.

The bill establishes the FMLC Trust Fund to hold employee contributions and pay for FMLC benefits and administrative costs. Any funds expended from the General Fund to administer the program or provide benefits must be reimbursed to the General Fund by October 1, 2019.

The bill also changes various provisions of the state's FMLA and family violence leave law, which generally require certain employers to provide unpaid leave to employees for various reasons related to their health or their family members' health. Among other things it:

1. expands the FMLA's coverage from private-sector employers with at least 75 employees to all employers with at least two employees, including municipalities and other currently exempted employers (such as private schools), but not the state;
2. makes employees eligible for FMLA leave if they meet the FMLC's minimum earnings requirement (current law requires (a) private-sector employees to have been employed by their employer for at least 12 months and 1,000 work-hours and (b) most municipal employees to have been employed by their employer for at least 12 months and 1,250 work-hours);
3. changes the maximum FMLA leave allowed for currently covered private sector employees from 16 weeks over a 24-month period to 12 weeks over a 12-month period which reduces the amount of leave certain employees can potentially take over two years;
4. eliminates an employer's ability to require an employee taking FMLA leave to use his or her employer-provided paid sick time

or other employer-provided paid leave; and

5. adds to the family members for whom an employee can take FMLA leave to include the employee's siblings, grandparents, and grandchildren (including those related by marriage).

The bill requires the labor commissioner to adopt regulations by July 1, 2019, to implement the FMLC program and the bill's changes to the FMLA. It also makes numerous minor and conforming changes.

EFFECTIVE DATE: Upon passage, except the provisions that (1) extend requirements for funds administered by the treasurer to the FMLC Trust Fund are effective July 1, 2017; (2) require the treasurer to conduct a public education campaign are effective January 1, 2019; (3) require the labor commissioner to adopt regulations are effective July 1, 2019; (4) establish employer notice requirements are effective January 1, 2020; and (5) affect the terms of the current family medical leave laws are effective July 1, 2020.

## **FAMILY AND MEDICAL LEAVE COMPENSATION PROGRAM**

### **§§ 2, 6, 8 & 19 — The FMLC Program**

**Administration.** The bill establishes the FMLC program and requires DOL to administer it. It authorizes DOL to:

1. determine if a person is eligible for FMLC;
2. require a covered employee to provide certification from a health care provider to support the employee's FMLC claim;
3. request and examine any books, records, documents, contracts, or other papers relevant to a covered employee's eligibility;
4. summon and examine under oath any witnesses that can provide information relevant to a covered employee's FMLC claim;
5. establish procedures and forms for filing FMLC claims; and

6. ensure the confidentiality of records and documents related to medical certification, recertifications, or medical histories of covered employees and their family members, as required under the FMLA.

The bill also requires DOL, in consultation with the state treasurer and the Department of Revenue Services, to establish the procedures needed to implement the program. DOL must:

1. design, establish, and operate the program to ensure transparency in program management and the FMLC Trust Fund through oversight and ethics reviews of plan fiduciaries;
2. establish and maintain a secure internet website that displays public notices from DOL and other information it deems relevant and necessary to educate the public about the FMLC program; and
3. submit a report to the General Assembly by January 1, 2018 with recommendations for legislative action needed to implement the program.

The bill requires the labor commissioner, by July 1, 2019, to adopt regulations to establish the procedures and guidelines needed to implement the FMLC program and the bill's related changes to the private-sector FMLA. The regulations must at least include procedures for hearings and redress, including restoration and restitution, for an employee who believes an employer has violated any of the bill's or these laws' provisions. Unlike the current regulations for private-sector FMLA and state employee family medical leave, the commissioner does not have to make reasonable efforts to ensure the regulations are compatible with the federal FMLA and its regulations.

**Employee Contributions.** The bill requires (1) DOL to begin collecting contributions to the FMLC Trust Fund by July 1, 2019 and (2) every employee who works for an employer with at least two employees and the self-employed and sole proprietors who opt in to

the program to contribute a percentage of his or her weekly earnings to the trust fund in a manner the commissioner prescribes. The department must determine the amount of contributions necessary to ensure (1) the program's solvency and (2) that contributions total at least \$4 million per month. The bill also requires DOL to:

1. design and establish the process by which employees must contribute a portion of their salaries to the trust fund, including creating an information packet with the necessary paperwork for participating;
2. evaluate and establish a process that allows employers to credit their employee's contributions to the trust fund through payroll deposit; and
3. ensure that contributions are only used to provide FMLC benefits and pay for the program's expenses, including employee costs and the costs of implementing, maintaining, advertising, and administering the program.

**FMLC Benefits.** The bill requires DOL, by July 1, 2020, to begin paying FMLC benefits to covered employees who file claims. The program must provide up to 12 weeks of FMLC benefits to covered employees during a 12-month period, which can be determined as a:

1. calendar year;
2. fixed 12-month period (e.g., a fiscal year or 12-month period measured from an employee's first day of employment);
3. 12-month period measured forward from an employee's first day of leave; or
4. rolling 12-month period measured backward from an employee's first day of leave.

Under the bill, a covered employee's weekly benefit is 100% of his or her average weekly earnings during his or her highest earning quarter

within the five most recently completed calendar quarters before going on leave, after state and federal tax deductions. But the benefit cannot be more than \$1,000 per week, or an inflation adjusted equivalent.

If the IRS determines that FMLC benefits are subject to federal income taxes and the employee chooses to have the taxes withheld from the benefits, DOL must deduct and withhold the amount required by the U.S. Internal Revenue Code in a manner consistent with state law. (The bill does not specify how contributions to the fund or benefits paid from it will be treated under state tax laws.)

***Inflation Adjustments.*** Starting July 1, 2020 and by July 15 each year, the bill requires the labor commissioner to annually announce an adjustment to the minimum earnings threshold and benefit cap based on the Consumer Price Index (CPI) for urban wage earners and clerical workers in the northeast urban area of New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment, as calculated by the U.S. Bureau of Labor Statistics. The adjustment must be the CPI's percentage increase between the last complete calendar year and the previous calendar year, with the amount of the increase rounded to the nearest five cents. The adjusted earnings threshold and benefit cap take effect on the following January first.

***Benefit Uses.*** The bill allows a covered employee to receive FMLC benefits for leave taken for any of the reasons allowed under the state's private-sector FMLA or family violence leave law, as amended by the bill. These allow leave:

1. on the birth of the employee's son or daughter;
2. on the placement of a son or daughter with the employee for adoption or foster care;
3. for a spouse's, sibling's, son's, daughter's, grandparent's, grandchild's, or parent's serious health condition;
4. for the employee's own serious health condition;

5. to serve as an organ or bone marrow donor;
6. for certain family members who are armed forces members undergoing treatment for an injury or illness incurred in the line of duty;
7. under certain circumstances when certain family members are in the armed forces and on active duty or have been notified of an impending call or order to active duty; and
8. for family violence victims, to (a) seek medical care or psychological counseling, (b) obtain services from a victim services organization, (c) relocate because of family violence, or (d) participate in any civil or criminal proceeding related to, or resulting from, the family violence.

To qualify for benefits under the bill, an employee must notify DOL and his or her employer, if applicable, of the need for FMLC benefits. The department must determine the notice's form and manner. If DOL requests it, the employee must also provide a health care provider's certification as required under the FMLA law.

The bill allows an employee to receive benefits for nonconsecutive hours of leave, but limits the benefits to an eight-hour minimum in any workweek. If an employee takes benefits for at least eight hours, but less than one week, the employee's hourly compensation must be determined on a pro rata basis at DOL's discretion.

The bill allows employees to receive FMLC benefits concurrently with any employer-provided employment benefits as long as their total compensation while they are on leave does not exceed their regular compensation rate. Under the bill, no employees can receive FMLC benefits concurrently with unemployment compensation benefits or workers' compensation benefits.

### **§§ 3-5 & 21 — The FMLC Trust Fund**

**The FMLC Trust Fund.** The bill establishes the FMLC Trust Fund to



provide FMLC benefits to covered employees taking leave under the FMLA or the family violence leave law, as amended by the bill. The trust's assets must be used for (1) FMLC benefits; (2) educating and informing people about the program; and (3) paying the trust's operational, administrative, and investment costs. It must be a non-lapsing fund held by the state treasurer separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the fund must become part of it.

The bill makes the trust an instrumentality of the state and requires it to perform essential governmental functions under the bill. It must receive and hold all payments and deposits or contributions intended for it, plus any gifts, bequests, and endowments; federal, state, or local grants; any other funds from a public or private source; and all earnings until disbursed under the bill's provisions.

Under the bill, the amounts deposited in the trust are not state property, and the trust must not be construed as a state department, institution, or agency. Amounts in the trust cannot be comingled with state funds, and the state must not have any claim to or against, or interest in, the funds. If the fund is terminated by law, however, any unclaimed funds become assets of the state.

Any contract or obligation made by the trust is not a state debt or obligation, and the state does not have any obligation to a designated beneficiary or any other person because of the trust. All debts owed by the trust are limited to the amounts available to pay the debt deposited in the trust. The trust must exist (1) as long as it holds any deposits or has any obligations and (2) until it is terminated by law.

The law for determining when property held by a fiduciary is presumed abandoned applies to the trust's property (CGS § 3-61a). Thus, property in the trust is presumed abandoned unless, within seven years after it became payable or distributable, the owner has (1) increased or decreased the principal, (2) accepted payment of principal or income, (3) corresponded in writing with the fiduciary concerning the property, or (4) otherwise indicated an interest through a

memorandum on file with the fiduciary.

**State Treasurer's Duties.** The bill makes the state treasurer responsible for receiving and investing money held by the trust. The trust can only receive cash deposits, and no depositor or designated beneficiary may direct the investments of any contributions or amounts in the trust other than the specific fund options the trust provides.

The bill requires the treasurer, on behalf of the FMLC Trust Fund and for its purposes, to:

1. receive and invest the trust's funds in any instruments, obligations, securities, or property required under the bill;
2. procure insurance, if she deems it necessary, to protect the trust's property, assets, activities, deposits, or contributions; and
3. apply for, accept, and expend gifts, grants, or donations from public or private sources to carry out the trust's objectives.

The bill requires the treasurer to invest the trust's fund in a manner reasonable and appropriate to the trust's objectives, using the discretion and care of a reasonable person in similar circumstances with similar objectives. The treasurer must give due consideration to (1) rate of return; (2) risk; (3) term or maturity; (4) diversification of the trust's total portfolio; (5) liquidity; (6) projected disbursements and expenditures; and (7) expected payments, deposits, contributions, and gifts to be received.

The bill prohibits the treasurer from requiring the trust to invest directly in any obligations of the state or its political subdivisions, or in any other treasurer-administered investment or fund. The trust's assets must be continuously invested and reinvested in a manner consistent with the trust's objectives until they are disbursed under DOL's order or spent on the trust's operating expenses.

The bill places the treasurer's trust investments under the same

oversight and requirements the law establishes for treasurer-administered funds, including the Teachers' Pension Fund, the State Employee Retirement Fund, and the Connecticut Municipal Employees' Retirement Fund.

### **§ 7 — FMLC Public Education Campaign**

The bill requires DOL, in consultation with the state treasurer, to conduct a public education campaign to inform the public and employers about the FMLC program. The campaign must at least include information about (1) the requirements for receiving benefits under the program and (2) how to apply for benefits and the circumstances under which benefits may be available. The bill allows DOL to use funds from the FMLC Trust Fund for the public education campaign. Information distributed or available under the campaign must be in English, Spanish, and any other language the department prescribes.

### **§ 8 — Participation by Sole Proprietors and the Self-Employed**

The bill allows someone who is self-employed or a sole proprietor to enroll in the FMLC program and includes them in its definition of “covered employees” and “employees.” Such a person must apply to DOL for enrollment in the program, in a form and manner the department prescribes. The person can enroll as long as he or she initially does so for at least three years. The person can re-enroll in the program for periods of at least one year if he or she provides written notice to DOL and the re-enrollment begins immediately after a subsequent period of participation in the program. (Presumably, this means that a sole proprietor would have to re-enroll for at least three years if he or she had any breaks in enrollment.)

Under the bill, a sole proprietor or self-employed person can withdraw from the program by submitting a written notice to DOL at least 30 days before his or her initial enrollment period expires, or at other times the department may prescribe by rule.

### **§§ 9 & 11 — Complaints and Enforcement**

The bill allows an FMLC participant aggrieved by a denial of benefits to file a complaint with the labor commissioner. The commissioner must hold a hearing after receiving the complaint and must subsequently send each party a written copy of his decision. The commissioner may award the participant all appropriate relief, including any compensation or benefits to which the participant would have otherwise been eligible. Any party aggrieved by the commissioner's decision may appeal to the Superior Court under the Uniform Administrative Procedure Act.

Under the bill, anyone who willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact to obtain FMLC benefits is disqualified from receiving program benefits for one year. DOL can also seek repayment of any benefits paid (1) erroneously, (2) due to willful misrepresentation, or (3) before a FMLC claim was rejected. The bill gives the labor commissioner discretion to waive any repayments, in whole or in part, when they would be against equity and good conscience.

#### **§ 10 — Employer Notice Requirement**

Starting January 1, 2020, the bill requires all employers with at least two employees to notify their employees at the time of hiring and every year thereafter:

1. of their entitlement to family and medical leave and family violence leave, as amended by the bill, and the terms under which the leave may be used;
2. that employer retaliation against an employee for requesting, applying for, or using family medical leave for which an employee is eligible is prohibited; and
3. that the employee can file a complaint with the labor commissioner for any violation of the FMLA or family violence leave law, as amended by the bill.

Employers can meet this requirement by displaying a poster with

the above information in a conspicuous place in their place of business that is accessible to employees. The poster must be in English and Spanish. The labor commissioner may adopt regulations to establish additional requirements about how employers must provide notice.

(The bill requires employers with at least two employees to meet this notice requirement starting on January 1, 2020; however, the bill does not expand the current FMLA to those employers until July 1, 2020.)

### **§ 12 — Severability and Exceptions**

The bill specifies that its FMLC provisions are severable, and if any are found to contravene state or federal law, the remainder remain in full force and effect. It also specifies that nothing in its provisions (1) prevents employers from providing more expansive benefits, (2) diminishes any rights provided under a collective bargaining agreement, or (3) preempts or overrides the terms of any collective bargaining agreement in effect before the bill is enacted.

### **§ 13 — Report Requirement**

Beginning by July 1, 2021, the bill requires the labor commissioner to submit an annual report to the Labor and Appropriations committees on:

1. the projected and actual participation in the program;
2. the balance in the trust;
3. the size of employers at which covered employees are employed;
4. the reasons why covered employees are receiving FMLC benefits;
5. the success of DOL's outreach and education efforts; and
6. demographic information on covered employees, including their gender, age, town of residence, and income level.

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**CHANGES TO CURRENT UNPAID LEAVE LAWS****§§ 14-18 — FMLA**

**Covered Employers.** Current law requires private-sector employers with at least 75 employees to provide eligible employees with unpaid FMLA leave. The bill (1) reduces this employee threshold from 75 to two and (2) includes municipalities, boards of education, and private or parochial elementary or secondary schools (all of whom are currently excluded from the law), subjecting them to the FMLA's other provisions, as amended by the bill. It does not extend the FMLA's provisions to the state and state employees who receive family and medical leave under a separate law (CGS § 5-248a).

**Maximum Leave Duration.** The bill changes the maximum amount of leave an employee may take from 16 weeks over a 24-month period to 12 weeks over a 12-month period. This change reduces the amount of leave that employees currently covered under the state FMLA can potentially take over two years, because under current law, an employee can choose to take all 16 weeks of state leave in the first year followed by 12 weeks of federal FMLA leave in the second year (when they are ineligible for state FMLA leave).

**Employee Eligibility.** Under current law, private sector employees are eligible for leave once they work for their employer for at least 12 months and 1,000 work-hours. The bill instead makes an employee eligible if he or she meets the minimum earnings threshold for FMLC benefits. (This includes unemployed people who are not receiving unemployment benefits, although it is unclear how the FMLA, which requires employers to provide their employees with leave, would apply to the unemployed.)

Current law allows employees to take leave for themselves, their children under age 18 or who are unable to care for themselves, their spouses, and their parents (including in-laws). The bill expands the family members for whom an employee can take leave to include the employee's adult children, siblings, grandparents, and grandchildren. All of these family members include those related by adoption.

Siblings, grandparents, and grandchildren also include those related by marriage.

***Military Caregiver Leave.*** The law allows employees covered by the FMLA to take a one-time benefit of up to 26 weeks of unpaid leave for certain family members who are armed forces members undergoing treatment for an injury or illness incurred in the line of duty. The bill allows these employees to receive up to 12 weeks of FMLC benefits while on this leave.

It also adds to the family members for whom the employee can take leave to include the employee's (1) siblings and grandparents (regardless of their status as next of kin); (2) grandchildren related by blood, adoption, or marriage; and (3) siblings and grandparents related by marriage.

***Employer-provided Paid Leave.*** Current law allows an employer to require employees to use their accrued employer-provided paid vacation, personal, family, medical, or sick leave during the time they are on FMLA leave. Employers can no longer require this under the bill. By law, unchanged by the bill, employees can opt to use their employer-provided paid leave while they are on FMLA leave.

As under current law, an employee's use of employer-provided paid leave counts toward his or her FMLA leave; however, the bill allows employees to receive FMLC benefits to make up the difference between their available employer-provided paid leave and the 12 weeks of leave allowed under the bill.

Current law requires employers to allow their employees to use up to two weeks of their employer-provided paid sick leave for a spouse's or child's serious health condition or the birth or adoption of a child. The bill expands this requirement to include serious health conditions of siblings, grandparents, and grandchildren (including those related by marriage).

***Confidentiality.*** With certain exceptions, the FMLA requires

employers to keep records and documents related to their employees' medical histories and medical certifications as confidential medical records under the state's Personnel Files Act. The bill extends this requirement to include the same records related to providing FMLC benefits.

### **§ 20 — Family Violence Leave**

Current law requires employers (including the state) with at least three employees to allow employees who are family violence victims to take paid or unpaid leave to (1) seek medical care or psychological counseling; (2) obtain service from a victim services organization; (3) relocate because of family violence; or (4) participate in any civil or criminal proceeding related to, or resulting from, the family violence. The bill lowers the employer's employee threshold from three to two employees and allows the leave to include benefits paid under the FMLC program. (Presumably, this would not include state employees, as they are not covered by the FMLC program under the bill.)

The law, unchanged by the bill, allows employers to limit unpaid family violence leave to 12 days per calendar year. It also specifies that family violence leave does not count against any other leave provided under state or federal law. It appears that this will allow family violence victims to take family violence leave in addition to the 12 weeks of leave allowed under the bill, although any FMLC benefits an employee receives while on family violence leave will be subject to the bill's 12-week benefit limit.

### **§ 22 — Municipal Employee Family Medical Leave**

Under current law, municipal employees are generally only eligible for family medical leave under the federal FMLA. The federal law provides 12 weeks of unpaid leave over a 12-month period to employees who worked for their employer for at least 12 months and 1,250 work-hours over the 12 months immediately preceding their leave. But current state law also allows certain municipal employees to qualify for leave under a lower work-hour threshold and in certain circumstances not allowed under federal law.



The bill eliminates these laws on July 1, 2020 and brings all municipal employees under the state FMLA. Thus, to qualify for leave they will only have to meet the minimum earnings threshold for FMLC benefits and will be able to take leave for any reasons allowed under the state FMLA.

## **BACKGROUND**

### ***Related Bill***

SB 1, reported favorably by the Labor and Public Employees Committee, also creates the Family and Medical Leave Compensation (FMLC) program and changes various provisions of the state's FMLA and family violence leave law. It is identical to HB 6212.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable

Yea 8      Nay 5      (03/09/2017)